

# EXHIBIT

# F

Declaration of Peter C. Salerno  
In Opposition to Plaintiffs' Motion to Compel  
Against Yassin Abdullah Kadi

03 MDL 1570

January 2018

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August 7, 2015

By Email and Regular Mail

Andrew J. Maloney, Esq.  
Kreindler & Kreindler LLP  
750 Third Avenue  
New York, NY 10017

Re: 03 MDL 1570 (S.D.N.Y.)

Dear Mr. Maloney:

This is our preliminary response to your letter of May 6, 2015 alleging gaps in our production on behalf of Yassin Abdullah Kadi. As we have previously advised you, we believe that our prior production, completed on December 15, 2014, included all documents that were relevant and responsive to the plaintiffs' document requests, and within the scope of the limited jurisdictional discovery allowed as to Mr. Kadi. In your May 6 letter, you identify certain additional categories of documents that you assert should have been produced. Although we do not agree that any additional categories are within the scope of the document requests, or are otherwise relevant to addressing personal jurisdiction over Mr. Kadi, we are conducting a review of previously-unproduced documents and intend to produce many additional documents in a good-faith effort to resolve any remaining concerns that plaintiffs may have. Likewise, although we do not agree that your second document request, also dated May 6, is timely, we will be producing documents responsive to that request. For coding purposes, we will treat your attachments to that request as attachments to your first request.

Given summer schedules, we are currently unable to tell you when we will be in a position to make this production.

A general comment: Many of your document requests are duplicative and overlapping. We have not attempted to identify every request to which a particular

document may be responsive. For this reason, when you assert that very few documents have been produced in response to a particular request, you may be in error.

### **Bank Records**

The Swiss bank account records in our production did not come entirely from the Swiss investigation of our client, and we did not rely solely on the Swiss investigation in responding to plaintiffs' document requests.

After our client was listed by the U.S. Office of Foreign Assets Control ("OFAC") as a Specially Designated Global Terrorist ("SDGT"), his London counsel, the firm of Carter-Ruck, made several visits to the client's office in Jeddah, Saudi Arabia to gather all information possibly relevant to all allegations against our client. Until he was designated an SDGT, Mr. Kadi had no reason to keep bank records (or any other records) from the 1990s. Therefore it should not be surprising that there are gaps in our production and in the documents we possess. However, we intend to produce more bank records in our forthcoming production. When this process is concluded, we will advise you if any non-privileged responsive documents are being withheld.

With respect to the absence of records from Albania, the Albanian government raided the offices of Muwafaq Foundation ("MF") and confiscated all their documents. These documents, comprising about 100 linear feet, were viewed by OFAC (*see, e.g., KADI0002903 et seq.*).

### **Bosnian Banks**

Although you complain that fewer than five hundred pages were produced in response to your requests concerning the Bosnian banks, you also note that documents relating to them have been produced in response to other requests. As noted above, we have not attempted to identify every request to which a document is responsive. As part of our current review, we expect to produce more documents responsive to your requests regarding the Bosnian Banks.

By way of explanation for the paucity of documents on the topic of the appointment of Chafiq Ayadi to manage Depozitna (the second bullet point on page 3 of your letter), we note that Ayadi's involvement in Depozitna began with our client's investment in 1996, many years before 2001, and Muwafaq had nothing to do with it.

### **NCB**

As we advised you in our original response to your request no. 27, Muwafaq did not have an account at NCB. As part of our review, we will produce more documents regarding NCB accounts if they are in our possession. There are almost certainly many more documents in the production we have already made that are responsive to your requests regarding NCB, that have not been identified as such for reasons already stated.

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We have not withheld any documents relating to the establishment and operation of NCB's Islamic banking department, although it is possible that more documents on those topics may surface in the additional searches we are doing.

### **Investigations**

Saudi Arabia – The Kingdom of Saudi Arabia (“KSA”) does not produce, or at least divulge, many documents in its investigations. We have given you what we have.

UK – We have located no response to the investigation referred to in Kadi 51452. We are aware that that document indicates an intention to seek a court order compelling a response, but we have no record that such an application was in fact made. As you are aware, we have produced a substantial number of documents in response to your request no. 61. We believe we have produced every non-privileged document in this category.

Re the Isle of Man inquiry – The following documents also relate to this inquiry: KADI0063321, KADI0063417-18, KADI0063419, KADI0063420-21, KADI0063422-23, KADI0063424-25, KADI0063428, KADI0063433-34, and KADI0063442. We will produce any additional responsive non-privileged documents that we find.

Pakistan – We have produced everything our client has. Once again, there may be more responsive documents than have been identified as responsive to your requests no. 36 and 37. We disagree with your assumption that “there certainly must be more than 82 pages.” The arrest of Amir Mehdi was in 1995, and the Pakistan office of Muwafaq was closed in 1997, many years before 2001.

US: Request #59 - We have produced all correspondence with OFAC. In the end our client did not supplement the record with significant factual developments since March 2004 because instead he focused on providing undertakings as to his future conduct. We do not understand your reference to Kadi 102836. This document is an email from Michael Abate of the U.S. Department of Justice to David Geneson, Mr. Kadi's then counsel, dated June 28, 2012. It does not say that any material was sent to anyone in 2013.

Switzerland [page 5 of your letter] - Annexes #81-101 to the Swiss Federal Police report are not missing. They are at KADI0011892-KADI0011990.

In response to your second bullet point (“Kadi 11858”): The “17 binders of general information” have been produced, as follows:

File 1:

KADI0020487-20523

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File 2:	KADI0031641-31943
File 3:	KADI0031944-32078
File 4:	KADI0020531-20909
File 5:	KADI0020960-21014
File 6:	KADI0032079-32117 KADI0021015-21074 KADI0032118-32137
File 7:	KADI0032138-32151 KADI0021075-21228 KADI0032152-32323 KADI0021229-21262
File 8:	KADI0021263-21335
File 9:	KADI0032324-32411
File 10:	KADI0021339-21381 KADI0032412-32613

(One fax was missing from copies of this file, but it has been produced elsewhere: KADI0019485.)

File 11:	KADI0021382-21394 KADI0032614-32720
File 12:	KADI0032721-32864
File 13:	KADI0021398-21451
File 14:	KADI0032865-33274
File 15:	KADI0031393-31477
File 16:	KADI0031478-31637
File 17:	KADI0033275-33692

In further response to the second bullet point under “Switzerland” on page 5, the “40 additional binders from the Federal Criminal Investigation Department” are contained in the CDs referred to in your third bullet point on this topic. There are two of them. The documents on them have been produced, but as a courtesy we are sending you,

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with a hard copy of this letter, exact copies of the two disks. As they are exact copies, they will not have Bates numbers on them.

In response to your request for clarification of whether the 2007 binders you have are “new, separate binders, or ... the 2004 binders with more recent supplements,” they are new, separate binders, although they are part of the same investigation and have some of the same documents. You have both.

Turkey – 13 exhibits: We do not have the 13 exhibits. We have made appropriate inquiries but they have been fruitless. We will produce any more documents relating to this lawsuit that we are able to find.

Ministry of Finance “*Report # 2 dated March 31, 2004, prepared by ... Hamza Kacar.*” This report is at BUR-PEC-089199 *et seq.* We have not been able to locate another copy.

Malaysia – At the top of page 6 of your letter you refer to a Malaysian government report on Mr. Kadi. We have located that report and will produce it. That document, and any others we have already produced, are all we have concerning this alleged investigation.

Bahrain – The document you refer to mentions one account of our client, not “accounts.” We have not so far located any documents relating to any freeze of any such account, and our client’s London counsel are not aware that such an event occurred, but we are checking further.

### **Kadi’s Trips**

Once again, all of Muwafaq Foundation’s offices were closed no later than 1998. We are undertaking additional searches and will produce any responsive documents.

### **The Muwafaq Foundation**

We are reviewing the as-yet-unproduced-and-not-privileged documents with a view to ascertaining whether there are more that should be produced. Several of your assertions, however, are explainable or incorrect. For example, your second bullet point’s premise that the number of documents produced should match the geographic spread of MF’s operations is plainly illogical. Fortuitously, many documents relating to Bosnian operations had been stored in Sarajevo and were thus readily available when Mr. Kadi was listed by OFAC. That these documents were available, despite the closing of MF’s Bosnian operations in 1998, does not mean that they were complete. It does not mean that documents from other offices were preserved. We have produced what we have regarding MF Zenica.

Conversely MF's Sudan operation had been closed in 1996 and its assets distributed to other entities (and we have produced documents reflecting those transfers. See, e.g., KADI0002486-87. See also, e.g., KADI0002476 (Pakistan); KADI0002478 (Bosnia)).

Because MF was a decentralized operation, the absence of documents concerning meetings of senior management should not be a surprise. We have produced what we have.

We have produced material relating to al Baraka Turkish Finance House: See e.g. KADI0015814, KADI0015878, KADI0017065, KADI0029528, KADI0060829. If we find more documents that are not privileged we will produce them.

We have produced all non-privileged documents relating to the Africa Confidential litigation that were otherwise responsive to your document requests, except 14 documents produced by defendants in that litigation for reasons described in my letter of December 15, 2014 to Bob Haefele and Sean Carter.

#### **AHAMAA**

Once again, we remind you that the absence of identification of a document with a particular document request does not mean that responsive documents were not produced. We have produced numerous documents that could have been identified as responsive to your requests concerning AHAMAA. We will produce any additional non-privileged responsive documents that we find.

#### **The Additional Charities**

See response under AHAMAA.

#### **BMI**

See response under AHAMAA.

#### **Osama Bin Laden**

It is an overstatement to say that Mr. Kadi had relationships with Bin Laden. We have not withheld any documents on this topic.

#### **Wael Jelaidan**

Once again, we have not attempted to identify every one of your requests to which a particular document may be responsive. We have produced many more than 47 pages relating to Wael Jelaidan, including the documents referred to in your last bullet point on Jelaidan, p. 10 of your letter. We will produce any additional non-privileged documents relating to him that are found.

**Khalid Bin Mahfouz**

We have the same comment as with Jelaidan.

**Relations With Other Entities and Individuals**

As you know, we objected to your requests on these topics. Nevertheless, in our new review and searches, we will be producing non-privileged documents relating to them. Our methodology is that each document that has been scanned is reviewed by a human being. Searching electronically is not reliable due to the vagaries of the optical character recognition process. Therefore it is not practical for us to give priority to any particular entity or individual.

**Privilege Redactions**

All redactions are in the following categories: annotations by an attorney for our client; annotations made at the request of, and for the benefit of, an attorney for our client; attorney-client, attorney-attorney, attorney-paralegal, etc., transmittals or other communications (e.g. parts of an email string). Documents 45871-45885 and 70113-70114 are such annotations. These documents and most others were reviewed and annotated by our client's London counsel after 9/11, and therefore a privilege log is not required. See Judge Maas's Order Governing Identification Of Privileged Documents dated November 19, 2012, ECF No. 2644. We will provide a supplemental privilege log with respect to any redactions that were created before 9/11.

There is no difference between redactions labeled "redacted" and those labeled "privileged." Different reviewers made different word choices, but all the redactions were for the above-noted privilege reasons.

Documents 11936-11937 (I think you mean 11937-11938; 11936 does not have any redactions or obscured text) are not redactions. The black bars reflect highlighting that obscures most of the text. We do not have an original – this is the way it was received from the Swiss Federal Police (it is an exhibit to that agency's report). The copy possessed by Mr. Kadi's London counsel, from whom the production copies of this document were taken, is slightly more legible and we have prepared a key to the information that has been deciphered. We send you herewith a copy of the two pages identifying the lines with obscured text, and a chart correlating the line identifier with such obscured text as can be discerned.

**FOIA Documents**

Judge Maas's order of December 26, 103 (ECF No. 2815) directed only plaintiffs to furnish FOIA correspondence. His February 19, 2014 order (ECF No. 2837) directed both parties only to "update their written responses to their adversaries' FOIA requests ...." You did not serve us with any such requests; therefore, we did not identify

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any documents as FOIA documents. Nevertheless, we have not withheld any such material that is responsive to any of your requests except one two-page document that was inadvertently mis-coded. It is attached. It would come between KADI0051863 and KADI0051864 in our production, and is therefore marked KADI0051863-A and B. It is responsive to your request no. 70.

Sincerely,

A handwritten signature in cursive script that reads "Peter C. Salerno".

Peter C. Salerno

Enclosures (2 disks)

cc by email:

Sean Carter, Esq.

J. Scott Tarbutton, Esq.

Robert Haefele, Esq.

Jerry Goldman, Esq.

James Kreindler, Esq.

Alan Kabat, Esq.

Defense Counsel

**Key to obscured text on KADI0011937-11938**  
**Prepared by Kadi's counsel for production to plaintiffs**  
**August 7, 2015**  
**Title and headings as in original except "Number"**

**Liste des entités en relations avec Yassin Abdullah Kadi, alias Abu Khalid**

<b>Number</b>	<b>PRENOM/NOM</b>	<b>ALIAS DATE DE NAISSANCE</b>	<b>INFORMATION FINANCIERE</b>	<b>NATURE DU LIEN</b>
1.	Abdal Abdul Jall Batterjee	01.07.1946 [Carter-Ruck note- this number is hard to read and may not be accurate]		partenaire d'affaires
2.	Abdul Latif Saleh	05.03.1957 [Carter-Ruck note- this number is hard to read and may not be accurate]		partenaire d'affaires
3.	Al Haramain Masjid Al Aqsa	Al-Haramain Al-Masjed Al Aqsa Charity Foundation	Depozitna Banka D.D. Sarajevo	organisation cantative destinataire des fonds
4.	Mamdouh Mahmoud Salim			partenaire d'affaires
5.	Mohamed Loay Bayazid			partenaire d'affaires
6.	Mousa Mohamed Abu Marzook	09.02.1951		partenaire d'affaires
7.	Muhammad A. Salah			partenaire d'affaires
8.	Wael Julaidan	Wael Hamza Julaidan 22.1.1959		partenaire d'affaires

## ANNOTATIONS BY KADI'S COUNSEL

KAD10011937

[illegible]

[illegible]



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THE DAILY TELEGRAPH(LONDON)

October 16, 2001, Tuesday

**SECTION:** Pg. 09

**LENGTH:** 604 words

**HEADLINE:** London suspect 'flew twice to US' The hunt

**BYLINE:** By Sean O'Neill

**BODY:**

A LONDON-based businessman accused of providing financial support for Osama bin Laden's terrorist network is believed to have visited America twice in the months before the September 11 attacks.

**Ayadi Chafiq bin Muhammad**, a Tunisian, is named on a Treasury list of individuals and organisations whose assets have been frozen because they are "believed to have committed or pose a significant risk of committing or providing material support for acts of terrorism". Bin Muhammad, 38, who was born in Tunisia but has Bosnian nationality, is thought to have left Britain shortly after the suicide attacks on New York and Washington.

His flat in a block above a filling station near Regent's Park was empty yesterday. There were signs that bin Muhammad and his family had made a hurried departure; a child's bicycle was propped against a wall in the hall. "He was a dour little man with a very bad temper. I remember once he had an altercation with a woman upstairs and he actually attacked her," said Bryan Larkin, a neighbour. Mr Larkin said the block was home to a transient population of asylum seekers and refugees. The building is owned by Bluevin Properties, which leases 21 of the 24 flats to Notting Hill Housing Trust. It houses homeless families nominated by Westminster city council.

Bin Muhammad lived in the block for eight months with his wife, six-year-old daughter and five-year-old son.

Mr Larkin, one of the block's few long-term residents, said: "On two or three occasions the whole family suddenly disappeared for quite a long time. I often spoke to the children, who would play in the corridor outside our front door.

"I hadn't seen them for a while and I asked the little girl where they had been. She said that they had just come back from America. They had been there before. The last time that happened was during the summer.

"I wondered how a family supposed to be down on its luck could afford to go to America for a couple of weeks. It seemed odd at the time but now appears potentially significant. I have not seen the family or heard a sound from the flat since the middle of September."

Mr Larkin, 64, a design consultant, said that though bin Muhammad's name appeared on a list of terrorist suspects, he had not been contacted by police or security services.

Bin Muhammad dressed in casual western clothes and had a beard and moustache. He is a former director of a company which once owned cafes in the West End.

A spokesman for the Notting Hill Housing Trust said bin Muhammad was not among its present tenants in the block.

According to the suspects list, bin Muhammad is also known under four aliases and has addresses in Germany, Belgium and Austria.

Also on the list is Omar Mahmoud Uthman, an extremist Muslim cleric known to followers in Britain as Sheikh Omar Abu Omar or Abu Qatada. He was arrested in February under the Terrorism Act but later released.

Jordan has unsuccessfully sought Qatada's extradition in connection with a failed plot to stage terrorist incidents coinciding with the Millennium.

More recently his name has been linked with two Algerian terrorist suspects being held in France in connection with a plan to attack the US embassy in Paris.

Zacarias Moussaoui, the so-called 20th hijacker who is in custody in America, also knew Qatada and was a visitor to his house in Acton, west London.

Freezing Qatada's assets is unlikely to have much impact. He has had political asylum in Britain since 1993, receives housing benefit and had his telephone disconnected last year for not paying his bill. Qatada has denied being involved with terrorism.

**LOAD-DATE:** October 16, 2001

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